IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6228 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GAURANG KUMUDCHANDRA MAHADEVIA

Versus

RITABEN MEHTA ALIAS

Appearance:

1. Special Civil Application No. 6228 of 2002

MR SANJAY A MEHTA for Petitioner No. 1

MR SOMPURA for MR SUNIT S SHAH for Respondent No. 1

NOTICE UNSERVED for Respondent No. 2,2

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 30/07/2003

ORAL JUDGEMENT

Leave to delete respondent No.2.

Rule. Mr.Sompura, learned Counsel waives service of rule. With the consent of the parties matter is taken up for final hearing today.

The present petition is preferred by the petitioner challenging the order dated 25-6-2002 passed by Family Court in HMP No.1129/2000, whereby the cost of Rs.15,000/= is awarded for adjournment.

Heard Mr.Mehta, learned Counsel for the petitioner and Mr.Sompura for the respondent.

It has been contended on behalf of the petitioner that the petitioner is having high blood pressure and because of the genuine reason the petitioner had asked for adjournment.

Mr.Sompura has left the matter to the Court for quantifying the amount of cost.

Considering the facts and circumstances of the case, even if the Court finds that the ground for adjournment is not genuine, in my view, a reasonable amount of cost can be awarded. The amount of Rs.15,000/= on the face of it cannot be sustained in the eye of law. Normally, the cost is awarded for compensating the inconvenience of the other side and also to some extent towards the wastage of public time, but in any case the amount of Rs.15,000/= is on a higher side and the order deserves to be interfered with. Mr.Mehta appearing for the petitioner has fairly agreed that the amount at the most, even if it is treated at higher side, cannot be more than Rs.2,000/=.

As observed earlier, Mr.Sompura has left the matter to the Court.

Mr.Mehta has further submitted that the petitioner henceforth will not ask for any adjournment and even if any adjournment is prayed for, the petitioner would not object to the cost being awarded of Rs.2,500/=.

In view of the above, I find that no further detailed reasons are required to be recorded for modifying the order passed by the learned Judge and, therefore, the order of the learned Judge, which is challenged in this petition, shall stand modified by substituting the amount of cost as that of Rs.2,500/=, instead of Rs.15,000/=. The petitioner has already deposited Rs.1,000/= and, therefore, the petitioner shall

deposit or pay a further amount of Rs.1,500/= as cost pursuant to the impugned order to the respondent within a period of two weeks from today. The impugned order is modified upon a further undertaking by the petitioner stating that he shall not seek any adjournment in the matter and if he seeks adjournment, he would not object to the cost to be ordered of Rs.2,500/= on such adjournment. The petition shall stand allowed to the aforesaid extent. Rule made absolute accordingly.

30-7-2003 (Jayant Patel, J.)

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